

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ALICE T.,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security;

Defendant.

8:21CV14

**AMENDED
MEMORANDUM
AND ORDER**

Plaintiff requests an award of attorney fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, totaling \$5,944.77. (Filing 39) In support of this request, Plaintiff itemizes attorney work of 1.8 hours in 2020, 22.1 hours in 2021, and 1.6 hours in 2022, and requests payment for that work at hourly rates of \$207.78, \$217.54, and \$225.71, respectively.¹ Plaintiff also requests payment of \$402.00 for the cost of the court's filing and administrative fees. Defendant has no objection to the amounts requested. (Filing 40)

The court has determined that Plaintiff was the prevailing party in this action, as the Commissioner's decision was reversed and the matter was remanded for further proceedings; the position of the Commissioner was not substantially justified because the administrative law judge did not evaluate certain medical opinions and did not address a portion of Plaintiff's testimony; the application for fees was filed in a timely fashion; Plaintiff's net worth did not exceed two million dollars when the action was filed; and no special circumstances make an award unjust. Plaintiff therefore is entitled to an award of reasonable attorney fees. Considering all relevant circumstances, the court finds the amount requested by Plaintiff is reasonable. An award of fees under the EAJA is payable to Plaintiff, not her attorney, *see Astrue v.*

¹ The hourly rate for attorney work was calculated by multiplying the \$125 unadjusted statutory maximum, *see* 28 U.S.C. § 2412(d)(1)(D)(2)(A), times 1.6622, 1.7403, and 1.8057 to account for inflation since March 1996. (Filing 39-2)

Ratliff, 560 U.S. 586, 589-98 (2010), but as a matter of practice an EAJA fee award made payable to Plaintiff may properly be mailed to Plaintiff's counsel.

IT IS THEREFORE ORDERED:

1. Plaintiff's Petition for Attorney's Fees under 28 U.S.C. § 2412(d) (Filing 39) is granted.
2. By separate document, the court shall enter judgment for Plaintiff and against Defendant providing that Plaintiff is awarded attorney fees and costs of \$5,944.77.
3. That sum shall be sent to Plaintiff's counsel, Mr. Kappelman, who shall be responsible for remitting to Plaintiff her portion of the award.
4. The court's Memorandum and Order of February 18, 2022 (Filing 41), and Judgment of that same date (Filing 42) are withdrawn.

Dated this 15th day of March, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge